

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application)	FINAL ORDER APPROVING TEMPORARY
T-13899, Umatilla County)	CHANGES IN PLACE OF USE AND POINTS
)	OF APPROPRIATION

Authority

Oregon Revised Statute (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion authorized under an existing water right.

Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

FARMLAND RESERVE, INC.
PO BOX 2308
PASCO, WA 99302

Findings of Fact

1. On January 31, 2022, Farmland Reserve, Inc. filed an application to temporarily change the places of use under Certificates 80849, 80850, 87666, and 87667, for a period of five (5) years, being 2022 through 2026. The applicant also proposes to change certain points of appropriation to facilitate the change in places of use under Certificates 80849, 80850, 87666, and 87667. The Department assigned the application number T-13899.
2. Notice of the application for transfer was published on February 8, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. Water uses from wells located in critical groundwater areas are subject to allocation under OAR Chapter 690, Division 507. Water uses under Certificates 80849, 80850, 87666, and 87667, are within the Stage Gulch Critical Groundwater area, and therefore are subject to allocation.
4. Temporary Transfer Application T-13899 proposes to temporarily transfer a water right from within the boundaries Echo Irrigation District and East Improvement District. The applicant conferred with the districts about proposed temporary transfer. Neither district objected to the transfer.

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

- On February 14 and March 7, 2022, the applicant provided further clarification regarding the disposition of water rights layered with appurtenant lands involved in the transfer.
- The portion of the first right to be transferred is as follows:

Certificate: 80849 issued in the name of KENNETH H. COPPINGER (perfected under Permit G-6626)

Use: IRRIGATION of 123.86 ACRES

Priority Dates: DECEMBER 29, 1975

Rate: 1.31 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or the equivalent for each acre irrigated, and is further limited to a total diversion not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COPPINGER WELLS #1 AND #2, BOTH WITHIN THE STAGE GULCH BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q		Measured Distances
3 N	29 E	WM	24	SW NE	UMAT 54853	COPPINGER WELL #1: 20 FEET NORTH AND 1570 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 24
3 N	29 E	WM	24	SE NE	UMAT 1329	COPPINGER WELL #2: 960 FEET NORTH AND 30 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
3 N	29 E	WM	24	NE SE	30.77	8700
3 N	29 E	WM	24	NW SE	31.00	4000
3 N	29 E	WM	24	SW SE	31.17	8500
3 N	29 E	WM	24	SE SE	30.92	8700
Total					123.86	

- A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Transfer Application T-13899 proposes to change the point of appropriation under Certificate 80849, as described below, to serve the proposed place of use.

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	WELL ID	Measured Distances
3 N	30 E	WM	20	SW SW	UMAT 1361	DITCHEN WELL 2: 100 FEET NORTH AND 80 FEET EAST FROM THE SW CORNER OF SECTION 20

8. Transfer Application T-13899 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot	Proposed Well
3 N	30 E	WM	20	NE SW	31.21	1000	DITCHEN WELL
3 N	30 E	WM	20	NW SW	30.70	1000	DITCHEN WELL
3 N	30 E	WM	20	SW SW	30.67	1000	DITCHEN WELL
3 N	30 E	WM	20	SE SW	31.28	1000	DITCHEN WELL
Total					123.86		

9. The authorized and proposed places of use described in Finding of Facts #6 and #8, above, are layered with supplemental irrigation under Permit S-54773. This permit is not involved in the transfer. The applicant has stated that the portions of Permit S-54733 layered with the authorized and proposed lands under Transfer T-13899 will remain unexercised during the period of this temporary transfer.
10. As a condition of Transfer T-13899, the portion of Permit S-54773 that is appurtenant to the authorized and proposed places of use as described Finding of Facts #6 and #8, above, shall remain unexercised during the period of this temporary transfer.
11. A portion of the proposed place of use described in Finding of Fact #8, above, is layered with primary irrigation under Certificate 84095. This certificate is not involved in the transfer. Certificate 84095 received an allocation of 804.6 acre-feet for the year 2022 from the Subarea H of the Stage Gulch Critical Groundwater Area (Special Order Volume 123, Page 2086). This certificate may or may not receive allocations of water for the duration of this transfer. Regardless, Certificate 84095 is a deficient rate right as described in OAR 690-300-0010 (11) and can therefore, can be layered with primary groundwater irrigation under Certificate 80849, also a deficient rate right, under temporary Transfer T-13899.
12. A portion of the authorized place of use as described in Finding of Fact #6, above, is appurtenant to lands described under Permits S-55114, S-55262, S-55263 and S-55173. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer. Therefore, the authorized place of use under Certificate 80849 described in FOF #6 is not subject to conditions set forth in Permits S-55114, S-55262, S-55263 and S-55173.
13. The proposed place of use as described in Finding of Fact #8, above, is appurtenant to lands described under Permits S-55114, S-55262, S-55263 and S-55173. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. Use of water under these permits is subject to the following annual use condition:
- a. In the interest of preserving groundwater, water use described under Permits S-55114, S-55262, S-55263 and S-55173, may be used as the primary supply when surface water is available for use under this permit. If water use under this permit is supplemental to a primary groundwater right, and the water under the permit is used as the primary supply, then the primary groundwater right cannot be transferred separately from the supplemental water under this permit to another

place of or character of use. If water from Permits S-55114, S-55262 and S-55263 and S-55173, is used for supplemental irrigation, the pre-existing primary rights for the same place of use cannot be transferred to another place of use or character of use.

14. The portion of the third right to be transferred is as follows:

Certificate: 80850 issued in the name of H-4 FARMS, INC., RICK HALE, PRESIDENT
(perfected under Permit G-5215)

Use: PRIMARY IRRIGATION of 9.64 ACRES

Priority Dates: FEBRUARY 16, 1973

Rate: 0.07 CUBIC FOOT PER SECOND, being 0.03 cfs from WELL # 5 [SGCGWA Subarea D] and 0.04 from WELL #8 [SGCGWA Subarea H]

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and is further limited to a total diversion not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS, BOTH WITHIN THE UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	11	SE SE	WELL #5: 60 FEET NORTH AND 590 FEET WEST FROM THE SE CORNER OF SECTION 11
3 N	29 E	WM	14	SW NW	WELL #8 : 1350 FEET SOUTH AND 50 FEET WEST FROM THE NE CORNER OF THE NW NW OF SECTION 14

Authorized Place of Use:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
3 N	29 E	WM	14	NE SW	0.04	4100
3 N	29 E	WM	14	SW SW	9.32	4100
3 N	29 E	WM	14	SE SW	0.28	4100
Total					9.64	

15. A change in point of appropriation from Well #8, located within Subarea H, is necessary to convey the water to the proposed temporary place of use. Transfer Application T-13899 proposes to change the point of appropriation under Certificate 80850, as described below, to serve the entire proposed place of use.

Proposed Points of Appropriation: (UMAT 3009)

Twp	Rng	Mer	Sec	Q-Q	WELL ID	Measured Distances
4 N	30 E	WM	35	SW SE	UMAT 3010	LORENZEN WELL: 1860 FEET SOUTH AND 2920 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 35

16. Transfer Application T-13899 proposes to change the place of use to

Proposed Place of Use:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
3 N	30 E	WM	3	NW SW	9.33	4100
3 N	30 E	WM	3	SW SW	0.31	4100
Total					9.64	

17. Certificate 80850 authorizes points of appropriation from two different subareas (D and H) of the Stage Gulch Critical Ground Water Area. Water use from a proposed or additional point of appropriation must be from the same subarea/source as the authorized well. Water use from an authorized point of appropriation within a specific subarea may not be transferred to a different subarea. Therefore, the water use from the Lorenzo Well, located within Subarea H, under Certificate 80850 as proposed in this transfer, may not exceed 0.04 CFS, and is further limited as ordered for any 2022, 2023, 2024, 2025, and 2026 Annual Allocation of Groundwater in the Stage Gulch Critical Groundwater Area, Subarea H, under Certificate 80850.
18. The authorized place of use described in Finding of Fact #14, above, is layered with supplemental irrigation under Permit S-54773. This permit is not involved in the transfer. The applicant has stated that the portions of Permit S-54733 layered with the authorized lands under Transfer T-13899 will remain unexercised during the period of this temporary transfer.
19. As a condition of Transfer T-13899, the portion of Permit S-54773 that is appurtenant to the authorized place of use as described Finding of Facts #14, above, shall remain unexercised during the period of this temporary transfer.
20. A portion of the authorized place of use as described in Finding of Fact #14, above, is appurtenant to lands described under Permits S-55114, S-55262 and S-55263 and S-55173. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer. Therefore, the authorized place of use under Certificate 80850 described in FOF #14 is not subject to conditions set forth in Permits S-55114, S-55262 and S-55263 and S-55173.
21. The proposed place of use described in Finding of Fact #16, above, will become layered with the same lands for which there is surface water primary irrigation authorized under temporary Transfer T-13609 (Certificate 93872). All uses of water under temporary Transfer T-13609 shall revert automatically to the authorized place of use at the end of the 2025 irrigation season, or earlier, if requested in writing by the applicant. Because Certificate 93872 was issued to confirm the disposition of conserved water pursuant to ORS 537.490(3) & (4) and OAR 690-018-0090(4), and is also a deficient rate right, it may be applied in conjunction with primary groundwater irrigation under Certificate 80850, also a deficient rate right, under temporary Transfer T-13899.
22. The proposed place of use described in Finding of Fact #16, above, will also become layered with the same lands for which there is primary use Planned Irrigation Activity during the

2022 irrigation season under Permits S-55114, S-55167, S-55262, and S-55263. In addition, the proposed place of use may become layered again in subsequent years prior to the termination of this transfer. Use of water under groundwater Certificate 80850, and these permits, once layered, are subject to the following annual conditions:

- a. In the interest of preserving groundwater, water use described under Permits S-55114, S-55167, S-55262, and S-55263 may be used as the primary supply when surface water is available for use under these permits. If water use under these permits is supplemental to a primary groundwater right, and the water under the permits is used as the primary supply, then the primary groundwater right for the same place of use cannot be transferred separately to another place of or character of use.
- b. If water from Permits S-55114, S-55167, S-55262, and S-55263 is used for supplemental irrigation, the pre-existing primary rights for the same place of use cannot be transferred to another place of use or character of use.
- c. The amount of water used under these four permits, together with the amount secured under any other right existing for the same lands, including Certificate 80850, and Certificate 93872 under Temporary transfer T-13609, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during the irrigation season.

23. The portion of the third right to be transferred is as follows:

Certificate: 87666 issued in the name of HALE FARMS, LLC (perfected under Permit G-5335)

Use: IRRIGATION of 154.76 ACRES

Priority Dates: JULY 19, 1974

Rate: 0.72 CUBIC FOOT PER SECOND, if available at the original point of appropriation

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The irrigation season used herein shall include any time of each year that water can be put to beneficial use by irrigation, either for immediate crop growth or for forecast requirements to raise the soil moisture to field capacity in the soil profile to be utilized by plant growth in the subsequent growing season, provided the amount of water used at the authorized place of use, together with the amount of water approved for use under Certificate 86680 shall not exceed 1.86 cubic feet per second and 1,014.56 acre feet per year, which reflect the capacity of the well system at the time of perfection attributable to the rights modified by T-10692.

Source: FOUR WELLS, ALL WITHIN THE UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	14	SW NW	HALE WELL #8: 1350 FEET SOUTH AND 50 FEET WEST FROM THE NE CORNER OF THE NW NW OF SECTION 14
3 N	29 E	WM	23	SE NE	COPPINGER WELL #3: 3960 FEET NORTH AND 1320 FEET WEST FROM THE SE CORNER OF SECTION 23
3 N	29 E	WM	24	SW NE	COPPINGER WELL #1: 20 FEET NORTH AND 1570 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 24
3 N	30 E	WM	7	SW SW	HALE WELL #3: 1420 FEET SOUTH AND 40 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax
3 N	29 E	WM	23	NE SE	1.60	8400
3 N	29 E	WM	23	NW SE	22.70	8400
3 N	29 E	WM	23	SW SE	24.40	8400
3 N	29 E	WM	23	SE SE	21.10	8400
3 N	29 E	WM	24	SW NW	22.95	4000
3 N	29 E	WM	24	SE NW	22.71	4000
3 N	29 E	WM	24	NE SW	19.80	4000
3 N	29 E	WM	24	NW SW	19.50	4000
Total:					154.76	

24. A change in points of appropriation is necessary to convey the water to the proposed temporary place of use. Transfer Application T-13899 proposes to change the points of appropriation under Certificate 87666, as described below, to serve portions of the proposed place of use.

Proposed Points of Appropriation: UMAT 3010

Twp	Rng	Mer	Sec	Q-Q	WELL ID	Measured Distances
4 N	30 E	WM	35	SW SE		LORENZEN WELL: 1860 FEET SOUTH AND 2920 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 35

25. Transfer Application T-13899 proposes to change the place of use to:

Proposed Place of Use: UMAT 3010 subarea H

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Proposed Well
3 N	30 E	WM	3	NE SW	4.49	400	Lorenzen Well
3 N	30 E	WM	3	NW SW	10.76	400	Lorenzen Well
3 N	30 E	WM	3	SW SW	30.93	400	Lorenzen Well
3 N	30 E	WM	3	SE SW	5.28	400	Lorenzen Well
3 N	30 E	WM	3	NE SE	15.81	400	Lorenzen Well
3 N	30 E	WM	3	NW SE	34.94	400	Lorenzen Well
3 N	30 E	WM	3	SW SE	36.38	400	Lorenzen Well
3 N	30 E	WM	3	SE SE	16.17	400	Lorenzen Well
Total					154.76		

26. The authorized place of use described in Finding of Fact #23, above, is layered with supplemental irrigation under Permit S-54773. This permit is not involved in the transfer.

The applicant has stated that the portions of Permit S-54733 layered with the authorized lands under Transfer T-13899 will remain unexercised during the period of this temporary transfer

27. As a condition of Transfer T-13899, the portion of Permit S-54773 that is appurtenant to the authorized place of use as described Finding of Facts #23, above, shall remain unexercised during the period of this temporary transfer.
28. A portion of the authorized place of use as described in Finding of Fact #23, above, is appurtenant to lands described under Permits S-55114, S-55262 and S-55263 and S-55173. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer. Therefore, the authorized place of use under Certificate 87666 described in FOF #23 is not subject to conditions set forth in Permits S-55114, S-55262 and S-55263 and S-55173.
29. The proposed place of use described in Finding of Fact #25, above, will become layered with the same lands for which there is surface water primary irrigation authorized under temporary Transfer T-13609 (Certificate 93872). All uses of water under temporary Transfer T-13609 shall revert automatically to the authorized place of use at the end of the 2025 irrigation season, or earlier, if requested in writing by the applicant. Because Certificate 93872 was issued to confirm the disposition of conserved water pursuant to ORS 537.490(3) & (4) and OAR 690-018-0090(4), and is also a deficient rate right, it may be applied in conjunction with primary groundwater irrigation under Certificate 87666, also a deficient rate right, under temporary Transfer T-13899.
30. The proposed place of use described in Finding of Fact #25, above, will also become layered with the same lands for which there is primary use Planned Irrigation Activity during the 2022 irrigation season under Permits S-55114, S-55167, S-55262, and S-55263. In addition, the proposed place of use may become layered again in subsequent years prior to the termination of this transfer. Use of water under groundwater Certificate 87666, and these permits, once layered, are subject to the following annual conditions:
 - a. In the interest of preserving groundwater, water use described under Permits S-55114, S-55167, S-55262, and S-55263 may be used as the primary supply when surface water is available for use under these permits. If water use under these permits is supplemental to a primary groundwater right, and the water under the permits is used as the primary supply, then the primary groundwater right for the same place of use cannot be transferred separately to another place of or character of use.
 - b. If water from Permits S-55114, S-55167, S-55262, and S-55263 is used for supplemental irrigation, the pre-existing primary rights for the same place of use cannot be transferred to another place of use or character of use.
 - c. The amount of water used under these four permits, together with the amount secured under any other right existing for the same lands, including Certificate 87666, and Certificate 93872 under Temporary transfer T-13609, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during the irrigation season.

31. The portion of the fourth right to be transferred is as follows:

Certificate: 87667 issued in the name of HALE FARMS, LLC (perfected under Permit G-5337)

Use: IRRIGATION of 39.66 ACRES

Rate: 0.41 CUBIC FOOT PER SECOND, if available at the original point of appropriation

Priority Dates: OCTOBER 21, 1974

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The irrigation season used herein shall include any time of each year that water can be put to beneficial use by irrigation, either for immediate crop growth or for forecast requirements to raise the soil moisture to field capacity in the soil profile to be utilized by plant growth in the subsequent growing season, provided the amount of water use at the authorized place of use together with the amount of water approved for use under Certificate 86679 shall not exceed 1.86 cubic feet per second and 1,014.56 acre feet per year, which reflect the capacity of the well system at the time of perfection attributable to the rights modified by T-10692.

Source: FOUR WELLS, ALL WITHIN THE UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	14	SW NW	HALE WELL #8: 1350 FEET SOUTH AND 50 FEET WEST FROM THE NE CORNER OF THE NW NW OF SECTION 14
3 N	29 E	WM	23	SE NE	COPPINGER WELL #3: 3960 FEET NORTH AND 1320 FEET WEST FROM THE SE CORNER OF SECTION 23
3 N	29 E	WM	24	SW NE	COPPINGER WELL #1: 20 FEET NORTH AND 1570 FEET WEST FROM THE EAST ¼ CORNER OF SECTION 24
3 N	30 E	WM	7	SW SW	HALE WELL #3: 1420 FEET SOUTH AND 40 FEET EAST FROM THE W ¼ CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
3 N	29 E	WM	23	NE SE	29.25	8400
3 N	29 E	WM	23	NW SE	4.11	8400
3 N	29 E	WM	23	SE SE	6.30	8400
Total					39.66	

32. A change in points of appropriation is necessary to convey the water to the proposed temporary place of use. Transfer Application T-13899 proposes to change the points of appropriation under Certificate 87667, as described below, to serve the entire proposed place of use.

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	WELL ID	Measured Distances
4 N	30 E	WM	35	SW SE	UMAT 3010	LORENZEN WELL: 1860 FEET SOUTH AND 2920 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 35

33. Transfer Application T-13899 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
3 N	30 E	WM	3	NE SW	13.56	400
3 N	30 E	WM	3	NW SW	1.96	400
3 N	30 E	WM	3	SW SW	3.37	400
3 N	30 E	WM	3	SE SW	20.77	400
Total					39.66	

34. A portion of the authorized place of use as described in Finding of Fact #31, above, is appurtenant to lands described under Permits S-55114, S-55262 and S-55263 and S-55173. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer. Therefore, the authorized place of use under Certificate 87667 described in FOF #31 is not subject to conditions set forth in Permits S-55114, S-55262 and S-55263 and S-55173.

35. The proposed place of use described in Finding of Fact #33, above, will also become layered with the same lands for which there is surface water primary irrigation authorized under temporary Transfer T-13609 (Certificate 93872). All uses of water under temporary Transfer T-13609 shall revert automatically to the authorized place of use at the end of the 2025 irrigation season, or earlier, if requested in writing by the applicant. Certificate 93872 is a deficient rate right as described in OAR 690-300-0010 (11) and can therefore, for the duration of temporary Transfer T-13609, be layered with primary groundwater irrigation under Certificate 87666, also a deficient rate right, under temporary Transfer T-13899.

36. The proposed place of use described in Finding of Fact #33, above, will become layered with the same lands for which there is primary use Planned Irrigation Activity during the 2022 irrigation season under Permits S-55114, S-55167, S-55262, and S-55263. In addition, the proposed place of use may become layered again in subsequent years prior to the termination of this transfer. Use of water under groundwater Certificate 87667, and these permits, once layered, are subject to the following annual conditions:

- a. In the interest of preserving groundwater, water use described under Permits S-55114, S-55167, S-55262, and S-55263 may be used as the primary supply when surface water is available for use under these permits. If water use under these permits is supplemental to a primary groundwater right, and the water under the permits is used as the primary supply, then the primary groundwater right for the same place of use cannot be transferred separately to another place of or character of use.

- b. If water from Permits S-55114, S-55167, S-55262, and S-55263 is used for supplemental irrigation, the pre-existing primary rights for the same place of use cannot be transferred to another place of use or character of use.
- c. The amount of water used under these four permits, together with the amount secured under any other right existing for the same lands, including Certificate 87667, and Certificate 93872 under Temporary transfer T-13609, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during the irrigation season.

37. Pursuant to ORS 540.523(7), during the period of this temporary transfer, this transfer must be conditioned to prevent lands from which the water right is removed from receiving water under the transferred water right.

Temporary Transfer Review Criteria

38. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
39. Diversion structures, district canals, pumps, pump stations, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
40. The proposed changes, as conditioned, would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred rights, as required by ORS 540.523(7).
41. The Department finds the proposed changes, as conditioned, would not result in injury to other water rights in accordance with ORS 540.523(2). This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.
42. All other applicable requirements for a temporary water right transfer pursuant to OAR Chapter 690, Division 380, are met.

Conclusions of Law

The temporary changes in place of use and in points of appropriation needed to convey water to the temporary places of use proposed in Temporary Transfer Application T-13899, as conditioned above, are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

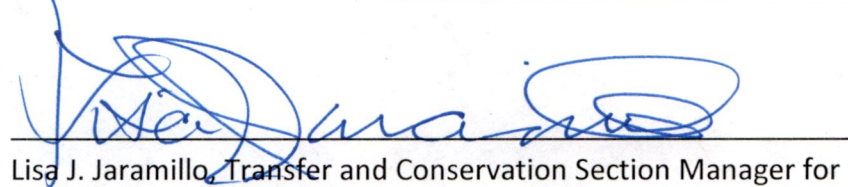
1. The temporary changes in place of use and additional points of appropriation needed to convey water to the temporary place of use proposed in Temporary Transfer Application T-13899 are approved, providing that water use from an proposed point of appropriation

within a specific subarea of the Stage Gulch Critical Ground Water Area may not have originated from an authorized point of appropriation from a different subarea.

2. All water use from any proposed point of appropriation from wells located within the Stage Gulch Critical Groundwater Area is subject to any 2022, 2023, 2024, 2025 and/or 2026 annual allocation as authorized in final orders of the Department for its originating authorized point of appropriation on the same water right.
3. The lands from which the water rights described by Water Right Certificates 80849, 80850, 87666, and 87667 are temporarily removed shall not receive any water under the rights during the 2022, 2023, 2024, 2025, and 2026 irrigation seasons.
4. The portions of Permit S-54773 that are appurtenant to the authorized and/or proposed places of use as described in Findings of Fact #6, #8, #14, and #23, above, shall remain unexercised during the period of this temporary transfer.
5. All uses of water under this temporary transfer shall revert automatically to the authorized place of use at the end of the 2026 irrigation season, or earlier, if requested in writing by the applicant. The authorization to use changed points of appropriation shall be terminated concurrently.
6. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
7. Any subsequent application for permanent transfer of Certificates 80849, 80850, 87666, and/or 87667 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
8. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 80849, 80850, 87666, and 87667.
9. The time during which water is used on the proposed lands under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

11. The use of the remaining water rights described by Certificates 80849, 80850, 87666, and 87667 not involved in this transfer shall continue to be in accordance with the terms and conditions of those Certificates.

Signed at Salem, Oregon this APR 27 2022.



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: APR 28 2022